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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 14th December, 1965/Agrahayana 23, 1887 (Saka)

The following Act of Parliament received the assent of the President on the 13th December, 1965, and is hereby published for general information:—

THE COAL MINES PROVIDENT FUND AND BONUS SCHEMES (AMENDMENT) ACT, 1965

No. 45 of 1965

[13*th December*, 1965]

An Act further to amend the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1965. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (hereinafter referred to as the principal Act),— 46 of 1948.

(1) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "coal" includes lignite;';

(2) for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "coal mine" means any excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, and includes—

(*i*) all borings and bore holes;

(*ii*) all shafts, in or adjacent to and belonging to a coal mine, whether in the course of being sunk or not;

(*iii*) all levels and inclined planes in the course of being driven;

(*iv*) any open cast working or quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining coal has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;

(*v*) all conveyors or aerial rope-ways provided for the bringing into or removal from a coal mine of coal or other articles or for the removal of refuse therefrom;

(*vi*) all adits, levels, planes, machinery, works, railways, tramways and sidings, in or adjacent to and belonging to a coal mine;

(*vii*) all workshops situated within the precincts of a coal mine and under the same management and used for purposes connected with that coal mine or a number of coal mines under the same management;

(*viii*) any office of a coal mine;

(*ix*) all power stations for supplying electricity for the purpose of working the coal mine or a number of coal mines under the same management;

(*x*) any premises for the time being used for depositing refuse from a coal mine, or in which any operation in connection with such refuse is being carried on, being premises exclusively occupied by the employer of the coal mine;

(*xi*) all hospitals and canteens maintained for the benefit of the employees of a coal mine or a number of

coal mines under the same management;

(*xii*) any coke oven or plant;

(*xiii*) any premises in or adjacent to and belonging to a coal mine, on which any plant or other machinery connected with a coal mine is situated or on which any process ancillary to the work of a coal mine is being carried on.';

(*3*) for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with a coal mine, and who gets his wages directly or indirectly from the employer, and includes—

(*1*) any person employed by or through a contractor in or in connection with a coal mine, and

(*2*) for the purposes of the Coal Mines Provident Fund Scheme, also

(*i*) any other person who is employed as a sanitary worker, mali, teacher or domestic servant in or in connection with a coal mine and who receives wages directly from the employer, and

(*ii*) any apprentice or trainee who receives stipend or other remuneration from the employer.';

(*4*) for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "employer", when used in relation to a coal mine, means any person who is the immediate proprietor or lessee or occupier of the coal mine or of any part thereof and in the case of a coal mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver and in the case of a coal mine owned by a company the business whereof is being carried on by a managing agent, such managing agent; but does not include a person who merely receives a royalty, rent or fine from the coal mine, or is merely the proprietor of the coal mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the coal of the coal mine; but any contractor for the working of a coal mine or any part thereof shall be subject to this Act in like manner as if he were an employer, but not so as to exempt the employer from any liability;';

(5) in clause (*f*), the word "and" occurring at the end shall be omitted and after that clause, the following clause shall be inserted, namely:—

'(*ff*) "managing agent" has the meaning assigned to it in the Companies Act, 1956; and'. 1 of 1956

Amendment of section 3.

3. In section 3 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Fund shall vest in, and be administered by, the Board constituted under section 3A.".

Insertion of new sections 3A to 3D.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Constitution of Board of Trustees.

"3A. (*1*) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act referred to as the Board) consisting of the following persons, namely:—

(*a*) a Chairman appointed by the Central Government;

(*b*) the Coal Mines Provident Fund Commissioner, *ex officio;*

(c) three persons appointed by the Central Government;

(*d*) not more than six persons representing Governments of such States as the Central Government may specify in this behalf, from time to time, appointed by the Central Government;

(*e*) six persons representing employers, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf, and of whom at least one shall be a person who is not a member of any such organisation;

(*f*) six persons representing employees, appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf and of whom at least one shall be an employee himself and at least one shall be a person who is not a member of any such organisation.

(2) The terms and conditions subject to which a member of the Board may be appointed and the time, place and procedure

of the meetings of the Board shall be such as may be provided for in the Coal Mines Provident Fund Scheme.

(3) The Board shall administer the Fund vested in it in such manner as may be specified in the Scheme aforesaid.

(4) The Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme aforesaid.

Board of Trustees to be a body corporate.

3B. The Board of Trustees constituted under section 3A shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

Appointment of officers.

3C. (1) The Central Government shall appoint a Coal Mines Provident Fund Commissioner, who shall be the chief executive officer of the Board and shall be subject to the general control and superintendence of the Board.

(2) The Central Government may also appoint as many other officers, whose minimum monthly salary in the scale of pay (if any) applicable to them is not less than four hundred rupees, as it may consider necessary to assist the Coal Mines Provident Fund Commissioner in the discharge of his duties.

(3) Subject to the provisions of sub-sections (1) and (2), the Board may appoint such other officers and employees as it may consider necessary for the efficient administration of the Coal Mines Provident Fund Scheme.

(4) The method of recruitment, salary and allowances, discipline and other conditions of service of the Coal Mines Provident Fund Commissioner shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the Fund.

(5) The method of recruitment, salary and allowances, discipline and other conditions of service of other officers and employees of the Board shall be such as may be specified by the Board with the approval of the Central Government.

Transfer of accounts.

3D. (1) Where any employee who is a subscriber to any provident fund of the coal mine in which he is employed becomes a member of the Fund in accordance with the provisions of any Coal Mines Provident Fund Scheme, the accumulations in the provident fund of the coal mine standing to the credit of the employee shall, notwithstanding anything to the contrary con-

tained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Scheme, be transferred, by such person and within such time as may be provided in the Scheme, to the Fund and shall be credited to the account of the employee in the Fund.

(2) Where a member of the Fund leaves his employment in a coal mine and obtains re-employment in any other establishment (not being a coal mine to which the Coal Mines Provident Fund Scheme applies) and becomes a subscriber to any provident fund of that establishment, the amount of accumulations to the credit of such employee in the Fund shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules in relation to that provident fund permit such transfer.

(3) Where any employee who is a subscriber to any provident fund of an establishment (not being a coal mine to which the Coal Mines Provident Fund Scheme applies) leaves his employment in that establishment and obtains re-employment in a coal mine and becomes a member of the Fund, the amount of accumulations to the credit of such employee in the provident fund of the establishment left by him shall, if the employee so desires and the rules in relation to such provident fund so permit, be transferred to the credit of his account in the Fund.".

Amendment of section 5.

5. In section 5 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The employer shall pay the bonus in accordance with the Scheme as aforesaid.".

Insertion of new sections 7A and 7B.

6. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Schemes to be laid before Parliament.

"7A. Every scheme made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such

modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

Determination of moneys due from employers.

7B. (1) The Coal Mines Provident Fund Commissioner or any other officer duly authorised in this behalf by the Central Government may, by order, determine the amount due from any employer under any provision of this Act or of any scheme framed thereunder and for this purpose may conduct such enquiry as he may deem necessary.

(2) The officer conducting the enquiry under sub-section (1) shall, for the purpose of such enquiry, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 for trying a suit in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses;

and any such enquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

45 of 1860.

(3) No order determining the amount due from any employer shall be made under sub-section (1) unless the employer is given a reasonable opportunity of representing his case

(4) An order made under this section shall be final and shall not be questioned in any court of law.".

Amendment of section 9.

7. In section 9 of the principal Act,—

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) If any person—

(a) contravenes any provision of this Act or of any scheme framed thereunder, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

(b) who has been convicted of any offence punish-

able as aforesaid, is again guilty of any such offence within a period of two years from the date of the previous conviction, he shall be punishable on conviction with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.";

(*b*) in sub-section (*2*), for the words "any such scheme", the word, brackets and figure "sub-section (*1*)" shall be substituted;

(*c*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under sub-section (*1*).".

Amendment of section 10.

8. In section 10 of the principal Act,—

(*a*) in sub-section (*2*)—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) require an employer or any contractor from whom any amount is recoverable under section 10E—

(*i*) to furnish such information, or

(*ii*) to produce in the office of the Inspector or such other place as may be nearer to the employer or, as the case may be, the contractor, such accounts, books, registers and other documents,

relating to the employment of persons in a coal mine as the Inspector may consider necessary for the purposes of any scheme framed under this Act;";

(*ii*) in clause (*b*), for the words "enter any coal mine or its office", the words "and with such assistance, if any, as he may think fit, enter and search any coal mine" shall be substituted;

(*iii*) in clause (*c*),—

(*i*) after the word "employer", the words, figures and letter "or any contractor from whom any amount is recoverable under section 10E" shall be inserted;

(*ii*) the words "or its office" shall be omitted;

(*iv*) after clause (*c*), the following clauses shall be inserted, namely:—

"(*d*) make copies of, or take extracts from, any accounts, books, registers or other documents maintained in relation to a coal mine and where he has reason

to believe that any offence under this Act has been committed by an employer or contractor, seize with such assistance as he may think fit, such accounts, books, registers or other documents or portions thereof as he may consider relevant in respect of that offence;

(*e*) exercise such other powers as any such Scheme may provide.";

(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) Every person required to furnish any information or produce any document under clause (*a*) or clause (*b*) of sub-section (*2*) shall be deemed to be legally bound to do so within the meaning of section 175 of the Indian Penal Code. 45 of 1860.

(*2B*) The provisions of the Code of Criminal Procedure, 1898 shall, so far as may be, apply to any search or seizure under sub-section (*2*) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.". 5 of 1898.

9. In section 10A of the principal Act, after the words "any scheme framed under this Act", the words, brackets, figures and letters "or any accumulations required to be transferred under sub-section (*1*) or sub-section (*3*) of section 3D or any damages recoverable under section 10F or any charges payable by the employer under this Act in respect of the administration of any such scheme" shall be inserted. Amendment of section 10A.

10. After section 10A of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 10B to 10F.

"10B. (*1*) Where the employer is a firm or other association of individuals, all, or any of the partners or members thereof, or where the employer is a company, all or any of the directors thereof, may be prosecuted and punished under this Act for any offence for which the employer is punishable: Determination of employer in certain cases.

Provided that where a firm, association or company has given notice in writing to the Coal Mines Provident Fund Commissioner or any officer specified by the Central Government in this behalf that it was nominated,—

(*a*) in the case of a firm, and of its partners,

(*b*) in the case of an association, any of its members,

(c) in the case of a company, any of its directors, who is resident in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in, such firm, association or company, to assume the responsibility of the employer for the purposes of this Act or of any scheme framed thereunder, such partner, member or director, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest number of shares as aforesaid, be deemed to be the employer for the purposes of this Act or any scheme framed thereunder, unless a notice in writing cancelling his nomination or stating that he has ceased to be a partner, member or director, as the case may be, is received by the Coal Mines Provident Fund Commissioner or any officer specified by the Central Government in this behalf.

(2) Where the employer is a Government or any local authority, all or any of the officers or persons authorised by such Government or local authority, as the case may be, to manage the affairs of the coal mine, shall, notwithstanding anything to the contrary contained in any law or contract for the time being in force, be deemed to be the employers or employer in respect of the coal mine and may be prosecuted and punished under this Act for any offence for which the employer is punishable.

Delegation of powers.

10C. (1) The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any scheme framed thereunder shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by the Coal Mines Provident Fund Commissioner or any officer authorised in this behalf by the Central Government.

(2) The Board may delegate to its Chairman or the Coal Mines Provident Fund Commissioner or any other officer of the Board, subject to such conditions and limitations, if any, as the Board may specify, such of the powers and functions of the Board under this Act or any scheme framed thereunder as the Board may deem necessary for the efficient administration of any scheme framed under this Act.

Payment of contribution by employers and recovery thereof from members.

10D. (1) The contribution shall be payable by the employer (hereinafter referred to as the employer's contribution) and by the employee (hereinafter referred to as the employee's contribution) at such rate as may be specified in the Coal Mines Provident Fund Scheme, and the employer shall pay the employer's contribution as well as the employee's contribution, whether or not he has recovered from any employee the employee's share of the contribution.

(2) The amount of any contribution paid by the employer on behalf of a member shall, notwithstanding anything to the contrary contained in any other law for the time being in force or any contract, be recoverable by means of deduction from the wages of the member and not otherwise.

(3) Save as otherwise provided in the Coal Mines Provident Fund Scheme, no deduction under sub-section (2) shall be made from any wages other than such as are paid in respect of the period for which the contribution is payable.

(4) Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct the employer's contribution or the charges referred to in section 10A from the wages of a member or otherwise to recover such contribution or charges from such member.

Recovery of monies by employers and contractors.

10E. (1) The amount of contribution (that is to say the employer's contribution as well as the employee's contribution) and any charges referred to in section 10A paid or payable by an employer in respect of an employee employed by or through a contractor and any bonus paid or payable under any Coal Mines Bonus Scheme in respect of any such employee may be recovered by such employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him may, save as otherwise provided in the Coal Mines Provident Fund Scheme, recover from such employee the employee's contribution under any such Scheme by deduction from the wages payable to the employee subject to the condition that no such deduction shall be made from any wages other than such as are payable in respect of the period to which the employee's contribution relates.

(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges or bonus referred to in sub-section (1) from the amount payable to an employee employed by or through him or otherwise to recover such contribution or charges or bonus from such employee.

Power to recover damages.

10F. Where an employer makes default in the payment of any contribution or bonus or any charges payable by him under any scheme framed under this Act, or where any person who is required to transfer provident fund accumulations in accordance with the provisions of section 3D makes default in the transfer of such accumulations, the Central Government may recover from such employer or person, as the case may be, such damages, not exceeding twenty-five per cent. of the amount of arrears, as it may think fit to impose.".

Insertion of new section 11B.

11. After section 11A of the principal Act, the following section shall be inserted, namely:—

Power to remove difficulties.

"11B. If any difficulty arises in giving effect to the provisions of this Act or any scheme framed thereunder, the Central Government may, by order published in the Official Gazette, make such provision or give such direction not inconsistent with the purposes of this Act, as it appears to it to be necessary or expedient for removing the difficulty.".

Amendment of First Schedule.

12. In the First Schedule to the principal Act,—

(a) in item 2, for the word "employees,", the words and brackets "employees (whether employed by an employer directly or by or through a contractor)," shall be substituted;

(b) after item 2, the following item shall be inserted, namely:—

"2A. The manner in which employees' contributions may be recovered by contractors from employees employed by or through such contractors.";

(c) for item 4, the following item shall be substituted, namely:—

"4. The constitution of any committee for assisting the Board.";

(*d*) for item 5, the following item shall be substituted, namely:—

"5. The opening of regional and other offices.";

(*e*) in item 7, for the words "and the maximum amount of such deduction or forfeiture", the words ", the maximum amount of such deduction or forfeiture and the utilisation of such deducted or forfeited amounts" shall be substituted;

(*f*) in item 11, after the word "employer", the words "or contractor" shall be inserted;

(*g*) for item 14, the following items shall be substituted, namely:—

"13A. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 3D, and the mode of valuation of any assets which may be transferred by the person administering such provident fund.

14. Any other matter which is to be provided for in the Coal Mines Provident Fund Scheme or which may be necessary or proper for the purpose of implementing that Scheme.".

13. In the Second Schedule to the principal Act,— **Amendment of Second Schedule.**

(*a*) in item 6, after the word "employer", the words "or contractor" shall be inserted;

(*b*) for item 7, the following items shall be substituted, namely:—

"6A. The transfer, by an employer to the Fund or any other fund specified by the Central Government, of the amount of bonus remaining unpaid or unclaimed for a period of six months from the end of the quarter to which the bonus relates and the extinguishment of the employer's liability to his employees to the extent of the amount so transferred.

7. Any other matter which is to be provided for in the Coal Mines Bonus Scheme or which may be necessary or proper for the purpose of implementing that Scheme.".

Continuance of existing Board of Trustees.

14. The Board of Trustees constituted under the Coal Mines Provident Fund Scheme and functioning immediately before the commencement of this Act shall, until the constitution of a Board of Trustees under section 3A of the principal Act as amended by this Act, be deemed to be the Board of Trustees constituted under the said section 3A.

Transfer of service of employees of the existing Board to the new Board.

15. Every person who is employed immediately before the commencement of this Act under the Board of Trustees constituted under the Coal Mines Provident Fund Scheme and functioning immediately before such commencement (hereafter in this section referred to as the existing Board) shall, on and from such commencement, become an employee of the Board of Trustees constituted or deemed to be constituted under section 3A of the principal Act as amended by this Act (hereafter in this section referred to as the new Board) and shall hold his office or service under the new Board by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the new Board:

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

R. C. S. SARKAR,
Secy. to the Govt. of India.

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